

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**WRIT PETITION (S) NO. 3264 OF 2015**

1. Union of India, through the Chief Post Master General, Chhattisgarh Division, Raipur Chhattisgarh 492001.
2. Praver Adhikshak, Dak Ghar, Raipur Division, Raipur Chhattisgarh
3. Assistant Director (Staff), Chhattisgarh Division, Raipur Chhattisgarh 492001

**... Petitioners**

**Versus**

- Damlesh Kosariya, S/o Late Shri Ravishankar Kosariya, aged about 28 years, R/o Nayapara Ward, Bajrang Chowk, Dhamtari, District Dhamtari (Chhattisgarh) Pin 493773.

**... Respondent**

|                 |   |                                                                         |
|-----------------|---|-------------------------------------------------------------------------|
| For Petitioners | : | Mr. N.K. Vyas, Asstt. Solicitor General.                                |
| For Respondent  | : | Mr. R.K. Pali, Advocate, under instructions of Mr. P.P. Sahu, Advocate. |

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**Hon'ble Shri Navin Sinha, Chief Justice**  
**Hon'ble Shri Justice P. Sam Koshy**

**Order on Board**

**Per NAVIN SINHA, C.J.**

**12/10/2015**

1. The Petitioners assail order dated 21.11.2014 allowing Original Application No. 935 of 2013 passed by the Central Administrative Tribunal, Jabalpur, Bench circuit sitting at Bilaspur.
2. The Tribunal has directed that the application for compassionate appointment of the Respondent be kept alive on basis of the merit point secured for consideration in the next 3 successive meetings only subject to availability of vacancies.
3. We have heard Counsel for the parties and are satisfied that the writ application can be disposed and the matter remanded to the authorities for fresh consideration in accordance with law. Suffice it to observe that notwithstanding what the Tribunal may have said, our duty under Article 226 of the Constitution is to apply the correct law.

4. The father of the Respondent died in service on 15.5.2008. He applied for compassionate appointment within the time prescribed on 27.10.2008. It was considered by the Petitioners and rejected on 1.6.2011 relying upon an intervening notification dated 20.1.2010 published after the date of death.

5. We are of the considered opinion that the Tribunal failed to adequately appreciate that the claim for compassionate appointment of the Respondent had to be considered in accordance with the guidelines as existing on the date of death and not by invoking any subsequent notification published thereafter. We need not refer to any precedents on this issue as law stands well established with regard to the same except to quote the following passage from 2015 (7) SCC 412 (Canara Bank & Another v. M. Mahesh Kumar):

“15. By perusal of the judgment in *Jaspal Kaur* case, it is apparent that the judgment specifically states that claim of compassionate appointment under a scheme of a particular year cannot be decided in the light of the subsequent scheme that came into force much after the claim”

6. The order of the Tribunal is therefore held to be not sustainable. It is set aside and the matter is remanded to the Union of India for fresh consideration of the Respondent's application for compassionate appointment in accordance with the policy as existing on the date of death. Let such consideration be done and appropriate final orders be passed within a maximum period of 2-3 months from the date of receipt and/or production of a copy of this order.

7. The writ petition is dismissed with directions.

Sd/-  
**(Navin Sinha)**  
Chief Justice

Sd/-  
**(P. Sam Koshy)**  
Judge